

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

RANDALL HAMPTON, (AIS #226420)

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Plaintiff,

*

V.

2:06-CV-400-MHT

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PRISON HEALTH CARE SERVICES,

*

Defendant.

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MOTION TO DISMISS FOR FAILURE TO COMPLY WITH COURT ORDER

COMES NOW Defendant Prison Health Services, Inc. (identified in the Plaintiff's Complaint as "Prison Health Care Services") (hereinafter PHS) and moves the Court, pursuant to its Order of August 4, 2006, to issue an Order dismissing this lawsuit for failure to comply with Court Order and in support thereof show as follows:

1. On May 3, 2006, the Plaintiff filed a Complaint against PHS, the company that contracts with the Alabama Department of Corrections to provide healthcare to inmates in the State of Alabama.
2. On August 3, 2006 the Defendant filed a Motion to Dismiss, or, in the Alternative, Motion for More Definite Statement based on Plaintiff's failure to state a claim against this Defendant.
3. The Court granted the Defendants' Motion for More Definite Statement on August 4, 2006.
4. The Court subsequently ordered the Plaintiff to amend his Complaint to state a claim against PHS with specificity. Specifically, the Court ordered:

The plaintiff shall file an amendment to his complaint which (i) specifically describes how the defendants violated his constitutional rights, and (ii) asserts with clarity those factual allegations material to his claims for relief.

The Court specifically warned:

The plaintiff is **cautioned** that failure to respond to this order will result in a recommendation that this case be dismissed.

5. On August 16, 2006, the Plaintiff amended his Complaint. However, he has failed to state any claim against PHS as was required pursuant to Court Order. The Plaintiff's amendment only added as Defendants other correctional Defendants including the Alabama Department of Corrections, "COI Fitzpatch," "COI Ms. Hanes," and "Capt. Perkins" alleging that they allowed him to seize on an unknown date. There is no showing that explains how PHS has failed to provide him with appropriate medical care. The Plaintiff has failed to provide any information establishing how PHS is alleged to have acted inappropriately. Since there is no description of what this Defendant has done wrong, PHS cannot provide a responsive pleading to the Plaintiff's amended Complaint. The Plaintiff has failed to obey this Court's Order to amend with specificity.

WHEREFORE PHS moves this Honorable Court to dismiss this action, with prejudice, for failure to obey this Court's Order of August 4, 2006.

Respectfully submitted,

s/L. Peyton Chapman, III
Alabama State Bar Number CHA060
s/R. Brett Garrett
Alabama State Bar Number GAR085
Attorneys for PHS

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served by U.S. Mail

this the 1st day of September, 2006, to:

RANDALL HAMPTON, (AIS #226420)
Bullock Correctional Facility
P.O. Box 5107
Union Springs, AL 36089

s/R. Brett Garrett GAR085
Attorney for PHS